

United States  
Circuit Court of Appeals  
For the Ninth Circuit.

In the Matter of the Contempt of the  
INDEPENDENT PUBLISHING COMPANY,  
a corporation, and Its Manager and Editor,

WILL A. CAMPBELL,

INDEPENDENT PUBLISHING COMPANY, a Corporation,  
and Its Manager and Editor WILL A. CAMPBELL,  
Plaintiffs in Error,  
vs.

THE UNITED STATES OF AMERICA,  
Defendant in Error.

Transcript of Record.

UPON WRIT OF ERROR TO THE UNITED STATES DIS-  
TRICT COURT OF THE DISTRICT OF MONTANA.

Filed

JAN 24 1916

F. D. Monckton,  
Clerk.



No.....

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United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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In the Matter of the Contempt of the  
INDEPENDENT PUBLISHING COMPANY,  
a corporation, and Its Manager and Editor,  
WILL A. CAMPBELL,

*Plaintiffs in Error  
and Respondents.*

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Transcript of Record.

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UPON WRIT OF ERROR TO THE UNITED STATES DIS-  
TRICT COURT OF THE DISTRICT OF MONTANA.

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## **Names and Addresses of Attorneys of Record.**

Messrs. C. B. NOLAN and E. C. DAY, of Helena,  
Montana, Attorneys for Respondents and Plain-  
tiffs in Error.

Messrs. B. K. WHEELER, U. S. Attorney, and H.  
G. MURPHY, Ass't. U. S. Attorney, Attorneys  
for the United States, of Butte, Montana.

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*In the District Court of the United States, District  
of Montana.*

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In the Matter of the Contempt of the  
INDEPENDENT PUBLISHING COMPANY,  
a corporation, and Its Manager and Editor,  
WILL A. CAMPBELL.

### **BILL OF EXCEPTIONS.**

BE IT REMEMBERED, in the above entitled proceedings, in the above entitled court, that an information was filed on the 29th day of November, 1915, which said information, in words and figures, is as follows:

(TITLE OF COURT AND CAUSE.)

United States of America,  
District of Montana.—ss.

At the special term at Helena of the United States District Court for the District of Montana, in the year of our Lord one thousand nine hundred and fifteen, beginning on the 15th day of November, A. D. 1915, leave of court being first had and obtained, comes Burton K. Wheeler, United States Attorney for the district of Montana, and informs the court:

That at the said special term, in the year of our Lord one thousand nine hundred and fifteen, of the said district court of the said United States for the district of Montana, to-wit, on the 26th day of November, A. D. 1915, at the city of Helena, in the state



and district of Montana aforesaid, there came on to be tried in said court before Honorable George M. Bourquin, then and still judge of said court, and a jury duly impaneled and sworn for that purpose, a certain issue in due manner joined between the United States of America and one W. T. Poe, alias J. C. Cross, upon a certain criminal indictment then pending in said court against said W. T. Poe, alias J. C. Cross, for having wrongfully, unlawfully and feloniously devised an artifice or scheme to defraud E. C. Carney and Company, a co-partnership composed of E. C. Carney and L. F. Carney, of Williston, North Dakota, of certain moneys, and in furtherance of said scheme had placed or caused to be placed in the post-office of the United States at Harlem, Montana, a certain letter on or about the 13th day of August, A. D. 1915, contrary to the statute in such case made and provided, and against the peace and dignity of the United States of America; that at the time of the adjournment of said court, and while said cause was still pending and undetermined and the trial thereof in progress, to wit, at or about the hour of fifteen minutes after five o'clock in the afternoon on said 26th day of November, A. D. 1915, the court duly admonished the jury as to its conduct during the adjournment of said court, and adjourned said court and the trial of said cause until ten o'clock in the forenoon of the 27th day of November, A. D. 1915, and said jury separated and went to their respective places of abode, in the said city of Helena, Montana;

That The Independent Publishing Company is a corporation duly organized, existing and doing business under the laws of the state of Montana, in the city of Helena aforesaid, and Will A. Campbell is the editor and manager of said corporation, and said Independent Publishing Company publishes and edits a daily morning paper in said city of Helena, known as and called "The Helena Independent;" that the said newspaper, "The Helena Independent" is the only morning newspaper published in said city and has a large circulation in said city of Helena and elsewhere and is edited and managed by said Will A. Campbell, who is the manager of said Independent Publishing Company; that on the morning of said 27th day of November, A. D. 1915, at or about the hour of six o'clock a. m., said Independent Publishing Company and the said Will A. Campbell, at the city of Helena, aforesaid, published, issued, circulated and distributed, and caused to be published, issued, circulated and distributed the regular daily issue of the said newspaper "The Helena Independent" for the said 27th day of November, A. D. 1915, which said issue of said newspaper so published, issued, circulated and distributed as aforesaid contained an article as follows, to wit:

"SLICK" MR. POE  
IS NOW ON TRIAL.

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Former Auditor of North  
Dakota City, Ex-Convict,  
Charged with Fraud.

---

## HAS BEEN IN MUCH TROUBLE

Was sentenced to 32 Years for Em-  
bezzlement in North Dakota and  
gets in Trouble Shortly After  
He is Paroled From Prison.

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W. T. Poe, former city auditor of Williston, North Dakota, ex-convict, homesteader and alleged forger, was placed on trial in the federal court yesterday to answer an indictment charging him with using the mails to defraud. The government got under headway with its presentation of the evidence against the defendant yesterday afternoon and the case is expected to go to the jury some time today.

Poe is charged with using the United States mails to defraud E. C. Carney and company of Williston, North Dakota. It is alleged in the indictment that Poe, under the alias of J. C. Cross, secured a loan from Carney and company of \$300, giving a mortgage on the farm of Alf Larson. Poe, it is alleged, forged the name of Larson to the checks sent him by the Carney Company.

## JUGGLED CITY FUNDS.

Poe was city auditor of Williston, North Dakota, for nearly four years. A little more than two years ago he was caught in a number of for-

geries and embezzlements, it is said, and was sentenced to an aggregate of 32 years in the penitentiary of North Dakota. His sentences would have been in part concurrent and would have given him a total of 12 years in prison. One embezzlement of which Poe was convicted was the raising of a \$1.50 check to \$1,500. North Dakota officials who are here to testify for the government say that Poe destroyed many of the records of his office before his peculations were uncovered.

After Poe had been in the North Dakota penitentiary for two years he was given a parole after his wife had worked incessantly in his behalf. His wife had previously come to Montana and taken up a homestead and he was allowed to leave North Dakota under his conditional pardon on condition that he was to come to the Montana homestead and live a quiet life with his wife.

#### OTHER ALLEGED WRONGS.

Other alleged shady acts on the part of Poe are now under investigation in the eastern part of the state, say the officials. It is also stated that Poe, who is a young man, comes of good people in North Carolina, but escaped prosecution in his native state on his promise to leave North Carolina and remain away for good.

In the present trial Poe is being defended by Attorney W. W. Patterson. United States Attorney B. K. Wheeler and Deputy Attorney Homer G. Murphy are prosecuting the case.

The jurors are John Pearson, H. M. Ogden, F.

H. Dean, George W. Hart, W. S. Marshall, Frank A. Fellows, John Dorfler, E. L. Fiske, W. H. Ogle, V. L. Hagman, R. G. Dixon and W. D. Niel.

That said ~~article~~ <sup>article</sup> so appearing in said issue of the said newspaper, to wit, "The Helena Independent" was not based upon facts adduced on the trial of said cause and was and is an obstruction of and an interference with the due administration of justice in and a contempt of said district court of the United States for the district of Montana, in this, that said article was written and published for the purpose of giving to the public generally and to all persons who read said newspaper and the said article certain facts relating to the past life of the said W. T. Poe, alias J. C. Cross, and particularly inform said jury or the members thereof then and there impaneled to try the said cause, who might read said newspaper and said article, certain facts about said defendant, W. T. Poe, alias J. C. Cross, that were highly prejudicial to his character and reputation and would when read by said jury or any members thereof tend to bias and prejudice them against said W. T. Poe, alias J. C. Cross and prevent the said jury and the members thereof who had read said article from giving the said W. T. Poe, alias J. C. Cross, a fair and impartial trial for the reason that it brought to their attention certain facts concerning the life of the said W. T. Poe, alias J. C. Cross, that were not material to the issues of said cause and could not be proven on the trial of said cause against



said W. T. Poe, alias J. C. Cross, unless he on the trial of said cause had taken the witness stand in his own behalf, or place his good character in issue.

That at the hour of ten o'clock in the forenoon of said 27th day of November, A. D. 1915, at which said court convened and the trial of said cause was resumed, it appeared to the court that certain members of said jury had read said article so written and published in said issue of said newspaper, "The Helena Independent" by the said Independent Publishing Company and Will A. Campbell, and by reason thereof had been informed and advised of the alleged facts so published about the said W. T. Poe, alias J. C. Cross, and his life and reputation, and it further appeared to the said court that said W. T. Poe, alias, J. C. Cross, could not by reason of the facts aforesaid have a fair and impartial trial by said jury, and said court by reason thereof was upon the request and consent of the said W. T. Poe, alias J. C. Cross, compelled to discharge said jury from further considering said cause and continue the trial thereof, and remand the said W. T. Poe, alias J. C. Cross, to the custody of the United States Marshal for the district of Montana, until said cause can hereafter be tried;

That the publication, issue, circulation and distribution of said newspaper on said 27th day of November, A. D. 1915, containing said article, by the said Independent Publishing Company, and the

said Will A. Campbell, was for the reasons aforesaid an obstruction of and interference with the due administration of justice in said court and cause on trial as aforesaid, and a contempt of said court.

WHEREFORE it is prayed that a citation issue out of this court directing the said Independent Publishing Company and Will A. Campbell, Manager and Editor thereof, to show cause on a day certain before this Honorable Court why they and each of them should not be adjudged in contempt hereof.

BURTON K. WHEELER,

United States Attorney for the District of  
Montana.

UNITED STATES OF AMERICA,

District of Montana.—ss.

Burton K. Wheeler, being first duly sworn, deposes and says that he is the duly appointed, qualified and acting United States Attorney for the district of Montana; that he has read the foregoing information in contempt and knows the contents thereof, and the same is true to the best of his knowledge, information and belief.

BURTON K. WHEELER,

SUBSCRIBED AND SWORN TO before me  
this 29th day of November, A. D. 1915.

GEO. W. SPROULE,

Clerk U. S. District Court, District of Montana.

Thereupon, on said date a citation was issued upon said information, which said citation, in words and figures, is as follows:

(TITLE OF COURT AND CAUSE.)

THE PRESIDENT OF THE UNITED STATES OF AMERICA:

To The Independent Publishing Company, a corporation, and Will A. Campbell, GREETING:

You, and each of you, are hereby commanded to be and appear before the District Court of the United States for the District of Montana, at the court room of said court in the Federal Building, in the city of Helena, County of Lewis and Clark, said district, on Wednesday, the 1st of December, A. D. 1915, at 10 o'clock A. M., then and there to show cause, if any you have, why you, and each of you, should not be punished for contempt for publishing in the Helena Independent, a daily newspaper at Helena, Montana, on the 27th day of November, 1915, a certain article about one W. T. Poe, alias J. C. Cross, then and there on trial in said court before said court and a jury, which article was calculated to excite prejudice against said defendant and prevent him from having a fair and impartial trial, thus obstructing and interfering with the due administration of justice in said court, all as more fully appears from the information herein a copy of which is hereto attached and herewith served on you.

Witness, HONORABLE GEORGE M. BOUR-



QUIN, Judge of the United States District Court, District of Montana, this 29th day of November, A. D. 1915.

Attest:

GEO. W. SPROULE, Clerk.

Thereafter, and before the first day of December, 1915, at the request of the Independent Publishing Company and Will A. Campbell, the said hearing was continued until the 6th day of December, 1915, the said named parties agreeing that the hearing should take place at the city of Butte, in said court, and on the 6th day of December, 1915, at said court in the city of Butte, the said named Independent Publishing Company and Will A. Campbell appeared and filed their answer to said information, which said answer, in words and figures, is as follows:

(TITLE OF COURT AND CAUSE.)

Comes now the Independent Publishing Company, a corporation by Will A. Campbell, its Manager and Editor, and the said Will A. Campbell in propria persona, the persons above named, and in response to the citation heretofore issued out of this Court in the said cause, directing them and each of them to show cause why they should not be adjudged in contempt, hereby respectfully show unto your honor as follows:

First. Respondents admit that the said Independent Publishing Company is a corporation organized, existing and doing business under the

laws of the State of Montana in the City of Helena, and engaged in publishing a daily morning paper in said city, known as the "Helena Independent," as set forth in the said citation. Respondents admit that the said Will A. Campbell is the Editor and Manager of the said corporation and has entire charge of the business of editing the said paper and was so employed on the morning of the twenty-seventh day of November, 1915.

Second. Respondents admit the facts set forth in paragraph one of the said citation relative to the proceedings in the case of the United States against W. T. Poe, and that the article set forth in the said citation appeared in the issue of the said newspaper on the morning of the twenty-seventh of November, 1915, and was not based upon facts adduced on the trial of the said cause, and that said article referred to the defendant then on trial, W. T. Poe.

Third. Respondents further answering the said citation, say: That the said newspaper is published at an early hour in the morning and that the material and copy therefor are prepared by reporters and edited by editors employed by the Independent Publishing Company and its said manager in the due course of business, and that a large portion of the contents of the said newspaper is furnished, prepared and printed at a late hour in the evening before the day of issue. That in his capacity as manager, the said Will A. Campbell exercised reasonable care in the selection and

employment of editors and reporters, and exercised reasonable care that articles reflecting upon the courts or in any manner tending to interfere with the due administration of justice, were excluded from the columns of the said paper. That on the evening of the twenty-sixth day of November, 1915, the said Will A. Campbell had left the office of the said Publishing Company at his usual hour, leaving the editorial management of the paper in charge of a person whom he believed to be fully competent to carry on the said editorial management, and fully conversant with the rules of conducting such business. That the article in question, as Respondents are informed and believe, was prepared by one of the reporters of the said newspaper, W. H. Perkins by name, and caused to be printed by the said Perkins without any editorial supervision and without the actual knowledge of the said Will A. Campbell. That the said Perkins, as Respondents are informed and believe, received the information upon which the article was based from persons upon whom the said Perkins relied and in the belief that the said statements were true and without any intent on the part of the said Perkins to in any manner interfere with the administration of justice in the courts or in violation of any of the rights of the said Poe, all of which will more fully appear by reference to the affidavit of the said Perkins, attached hereto and made a part hereof. That this Respondent, Will A. Campbell, had no knowledge of

the contents of the said article or of the intention of the said Perkins to cause the same to be printed prior to its publication in the said newspaper and that neither the said Will A. Campbell, nor any officer of the Respondent corporation had any personal connection with the publication of the said article or knowledge thereof, and in the publication thereof, had no intent whatsoever to interfere with the due administration of justice in this court or of any of the rights of the defendant Poe, then on trial. That these Respondents regret exceedingly the publication of the said article and have taken such steps as seem to be most efficient to prevent, in the future, the appearance in the columns of the said newspaper of anything whatsoever reflecting upon the conduct of this court or in any way interfering with the due administration of justice therein.

WHEREFORE, having fully answered, Respondents pray that the said citation may be set aside and the proceedings thereunder dismissed.

INDEPENDENT PUBLISHING COMPANY  
and WILL A. CAMPBELL.

By E. C. DAY and C. B. NOLAN,

Their Attorneys.

(Duly verified by Will A. Campbell.)

STATE OF MONTANA,

County of Lewis and Clark.—ss.

W. H. PERKINS, being first duly sworn, deposes and says:

I reside at the City of Helena, Montana. On the twenty-sixth day of November, 1915, I was employed by the Independent Publishing Company as a Reporter upon its paper, known as the "Helena Independent." I have read the article set forth in the citation heretofore issued out of this court against the said Independent Publishing Company, a corporation, and its Manager and Editor, Will A. Campbell. I am familiar with the said article. The same was prepared by me as a Reporter for the said Helena Independent on the evening of November twenty-sixth, 1915, between the hours of ten and eleven o'clock of the said evening. The facts set forth in the said article were obtained by me from Mr. Ed. Loveke, a gentleman who was in attendance as a witness upon the trial of the case against W. T. Poe. I was advised that this gentleman had been an Assistant States Attorney in the State of North Dakota and connected with the prosecution of the case in said State against the said Poe. From these representations and my conversation with the said gentleman, I was led to believe and did believe that he was familiar with the facts which he detailed to me, and with the procedure in court, and I published the said facts, in reliance thereon, without any intention on my part to in any manner interfere with the administration of justice in this court, and without any knowledge on my part that by the publication of these facts as thus detailed to me, either the newspaper or its editor, or anyone connected



with it would in any manner be guilty of any interference with the administration of justice in the said court or in contempt of court. That the published report is a full and true and fair reproduction of the facts as stated to me by the said gentleman, and were published by me in reliance upon the truth thereof as set forth by him. Owing to the lateness of the hour, the article was sent to the composing room without being censored or read by anyone, and without the knowledge of the Respondent, Will A. Campbell, the Managing Editor. That at the time of the preparation of the said article the said Will A. Campbell had left the office of the said paper for that day.

W. H. PERKINS.

SUBSCRIBED and SWORN to before me this 4th day of December, 1915.

E. C. DAY,  
Notary Public.

(Seal)

(Filed December 6, 1915.)

And thereupon the said matter was submitted to said court for final decision and judgment upon said information and said answer, and on the facts set forth in said information and answer, no evidence being introduced at said hearing, and thereafter on the 11th day of December, 1915, a memorandum decision and judgment was rendered against the said Independent Publishing Company and Will A. Campbell, which said judgment and decision, in words and figures, is as follows:

(TITLE OF COURT AND CAUSE.)

Respondents newspaper published a reference to and during a felony trial herein, which included purported past history, similar felonies, trials, sentences, imprisonment, parole, and exile to escape prosecution, of and by defendant. Brought to the court's notice and it appearing several jurors had read it, the jury was discharged, the trial ended, and by the court's order respondents were cited to show cause why they should not be adjudged in contempt. They answer the article was by their reporter believing it true, and was published without the knowledge of the respondent editor or any officer of the respondent corporation, without intent to obstruct the administration of justice, and that they "regret exceedingly" the publication and have guarded against repetition. Respondents put forward no unmaintainable contention that the article was not calculated to influence jury and judge, to prevent a fair and impartial trial, and so to obstruct the administration of justice. They make no impossible claim that newspaper publishers are peculiarly privileged to thus introduce improper matter to jury and judge—are not subject to the liabilities imposed by law upon any person who orally or in writing does the like. But they contend that since the power of United States Courts to proceed in contempt is limited by Sec. 268, Judicial Code, to "misbehavior of any person in their presence, or so near thereto as to obstruct the administration of justice," the power is lacking here in that

the publication was not "so near" the court within the meaning of the statute. In argument, they refer to *Morse v. Ore Purchasing Co.*, 105 Fed. 337, as indicating support for their contention in that therein the defeated party secured a new trial because of a series of prejudicial publications (presumably by this newspaper) during the trial, but that "it never occurred" to eminent counsel that contempt would lie. Referred to incidentally by them, so is it here. It is clear this publication did obstruct the administration of justice, and obviously because it was "so near" to the court, and that within the meaning of the statute.

"So near" in the statute means not so far off, not so distant but what it may obstruct the administration of justice. It is not a question of linear measurement, but of probable effect. Not where the press runs, but where the publication circulates. So long as jury and judge are engaged in a trial, it is of no moment that the improper influence extended over them was miles away from the court room rather than adjoining it. The effect is the same, the consequences the same, the evil as great, and it is the effect, consequences, evil, the law guards against.

The thoughtful mind needs but momentary reflection to subscribe hereto. In *Kirk vs. U. S.* 192 Fed. 275, the appeals court of this circuit held oral attempts to influence jurors, made over half a mile from the courtroom, were contempts within the statute, saying "it is obvious that any willful



attempt improperly to influence jurors \* \* \* no matter where committed, is sufficiently near to the presence of the court to tend to obstruct the administration of justice," and that without the power to summarily deal with such attempts, "the courts would be practically helpless."

McCaully vs. U. S. 25 App. D. C. 404 is a like case, and after conviction for contempt the Supreme Court (198 U. S. 582-586) refused *habeas corpus* and *certiorari*. It hardly needs suggestion that this being true in respect to oral words, *a fortiori* must it be true in respect to written words, of more permanency and potency.

In U. S. vs. Newspaper Co., 220 Fed. 458, it was held that newspaper publications in the city of a trial, tending to embarrass the court in consideration of the case or to excite prejudice against a party, or against the court contingent on the nature of its ultimate decision, are so near the court as to obstruct the administration of justice within the meaning of the statute.

In *re Josephus Daniels*, 131 Fed., 95, seems *contra*, but therein the publication was after the proceeding criticised was finished and so proper subject of criticism.

Respondents further contend that the publication, being without "willful intent" to obstruct justice is not contemptuous. But they or those for whom they must respond, whose acts are their acts, knew the trial was on and intended to and voluntarily did publish the article, and that is all the

willful intent necessary in any case.

“If a man intentionally adopts certain conduct in certain circumstances known to him, and that conduct is forbidden by the law under the circumstances, he intentionally breaks the law in the only sense in which the law ever considers intent.”

Ellis vs. U. S. 206 U. S. 257.

Doubtless nothing was intended but a “good story” for general circulation, but they knew the circumstances, that the trail was on, that the article would probably be read by jury and judge, and they knew the probable consequences,—obstruction of the administration of justice and—an accounting by the responsible publishers.

In the like case of *Newspaper Co. vs. Com.* (Mass.) 74 N. E., 682, it is accordingly held that intent to publish is alone material, though lack of intent to thereby obstruct justice may be considered in mitigation of punishment. If the article was true and not only believed true, it is neither defense nor mitigation.

“A publication likely to reach the eyes of a jury \* \* \* would be none the less a contempt that it was true. It would tend to obstruct the administration of justice, because even a correct conclusion is not to be reached or helped in that way, if our system of trials is to be maintained. The theory of our system is that the conclusions to be reached in a

case will be induced only by evidence and argument in open court, and not by any outside influence, whether of private talk or public print. What is true with reference to a jury is true also with reference to a court. \* \* \* \* \*

When a case is finished, courts are subject to the same criticism as other people, but the propriety and necessity of preventing interference with the course of justice by premature statement, argument or intimidation hardly can be denied."

Patterson's Case, 205 U. S. 462.

Here, in brief compass, is the law, its reasons and limitations. At argument, that the court had not admonished the jury not to read accounts of the trial was mentioned. It may be answered, the article was more than an account of the trial, that no one including courts are bound to anticipate and guard against another's negligence to say nothing of violation of law, that therein is no defense, and that such publications are contempts even if not read by jury or judge, because of the probability that they will be, or may be despite admonition, because of their evil tendencies and possibilities.

See Newspaper Co. vs. Com. (Mass.) 52 N. E. 445.

Respondents' last contention is that if they be in contempt, since they did not intend contempt they should be adjudged only to pay costs of this proceeding, citing Savings Bank V. Clay Center,

219 U. S. 527, and other cases. If this were strictly a criminal contempt or one involving the court alone, their contention might be conceded. But here, the proceeding has a double aspect. Criminal, in that it interfered with discharge of the court's duty and obstructed justice; civil, in that the publication proximately caused the trial's failure and inflicted pecuniary damage on plaintiff therein to the extent of costs uselessly paid, \$617.95. In respect to criminal contempts the penalty is usually punitive, fine or imprisonment. In respect to civil contempts the penalty is usually remedial, a fine which may be measured in some degree by the injured party's pecuniary damage and for his use. See *Gompers Case*. 221 U. S. 441, 445.

The plaintiff in the interrupted case, the United States, is the complainant here. Any fine imposed is necessarily for its use. It appears but just that taking into consideration both the civil and the criminal aspects of this proceeding, a fine should be imposed, in amount measured by the pecuniary loss suffered by the United States from respondents' act, wherein is no punishment save that in any case when one at fault makes whole the one he injures. It is a basic principle of morals and law that he who inflicts damage upon another shall indemnify him. Accordingly, respondents are adjudged in contempt and to pay a fine in the amount of \$617.95, and costs.

BOURQUIN, J.

Dec. 11, 1915.

And thereafter on the 15th of December, 1915, a judgment was duly entered.

(TITLE OF COURT AND CAUSE.)

**JUDGMENT.**

This matter coming on regularly to be heard in open court on the 6th day of December, A. D. 1915, B. K. Wheeler, United States Attorney for the district of Montana, and Homer G. Murphy, Assistant United States Attorney for the District of Montana, appearing on behalf of the United States, and Messrs. Walsh, Nolan & Scallon, and Messrs. Day & Mapes, appearing as counsel on behalf of the respondents, said matter was argued by counsel for the respective parties, and thereupon submitted to the court for its decision; and thereafter, on the 11th day of December, A. D. 1915, the court, after fully considering said matter, rendered its decision herein, which is hereby made a part hereof, wherein and whereby the court found that the accusation in the information is true and that the respondents, The Independent Publishing Company, a corporation, and Will A. Campbell, its Manager and Editor, did commit a contempt of this court, and ordered and adjudged that for such contempt the said respondents, The Independent Publishing Company, a corporation, and the said Will A. Campbell, should be fined in the sum of Six hundred and seventeen and 95-100 dollars, together with the costs of this proceeding.



IT IS THEREFORE CONSIDERED, ORDERED AND ADJUDGED by the court that the said Independent Publishing Company, a corporation, and Will A. Campbell, did commit a contempt of this court as alleged in the information herein, for which contempt it is ordered and adjudged they pay a fine of Six hundred and seventeen and 95-100 dollars, and costs taxed at Nineteen 15-100 Dollars.

Judgment rendered and entered this 15th day of December, A. D. 1915.

GEO. W. SPROULE, Clerk.

The foregoing bill of exceptions contains all of the evidence upon which the judgment and decision above set forth is based.

\* \* \*

THIS IS TO CERTIFY, That the foregoing bill of exceptions is allowed, and this is to further certify that it contains all of the facts and evidence upon which the judgment adjudging in contempt is based, is a true bill of exceptions and is hereby ordered filed.

DATED this 29th day of December, 1915.

GEO. M. BOURQUIN,

Judge.

THIS IS TO ACKNOWLEDGE service of the foregoing bill of exceptions and to acknowledge receipt of copy of same this 21st day of December, 1915.

B. K. WHEELER,

District Attorney.

(Endorsed) No. 481. Title of Court and Cause. Bill of Exceptions. Filed December 29, 1915. Geo. W. Sproule, Clerk, by Harry H. Walker, Deputy Clerk.

And thereafter, to-wit, on the 29th day of December, 1915, an Assignment of Errors and Petition for Writ of Error was filed herein, and order made and filed granting a Writ of Error herein, all being in words and figures as follows, to-wit:

*In the District Court of the United States, District of Montana.*

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In the Matter of the Contempt of the  
INDEPENDENT PUBLISHING COMPANY,  
a corporation, and Its Manager and Editor,  
WILL A. CAMPBELL.

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#### **ASSIGNMENT OF ERRORS.**

Come now the Respondents, Independent Publishing Company, a corporation, and Will A. Campbell, above named, and each of them, by their respective Attorneys, and make and file the following assignment of errors upon which they, and each of them, will rely as follows, towit:

1. The said Court erred in not setting aside the citation issued herein, and in not dismissing the proceedings thereunder.

2. The said Court erred in rendering judgment against the above named Respondents, or either of them, in said cause upon the pleadings in said

cause, and in adjudging said Respondents in contempt of Court, and that they pay a fine of \$617.95 and that said judgment is contrary to law and the facts, as stated in the pleadings in said cause.

E. C. DAY,

C. B. NOLAN,

Attorneys for Respondents and Plaintiffs in  
Error.

*In the District Court of the United States, District  
of Montana*

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In the Matter of the Contempt of the  
INDEPENDENT PUBLISHING COMPANY,  
a corporation, and Its Manager and Editor,  
WILL A. CAMPBELL,

---

**PETITION FOR WRIT OF ERROR.**

Come now the Independent Publishing Company, a Corporation, and Will A. Campbell, its Manager and Editor, the Respondents above named, and each of them, by their respective attorneys, and complain that in the record and proceedings had in said cause, and also in the rendition of the judgment in the above entitled cause in said United States District Court, for the District of Montana, wherein Respondents were adjudged in contempt of Court and were further adjudged to pay a fine in the sum of \$617.95 and costs, manifest error hath happened to the great damage of said Respondents, and each of them, respectively.

Wherefore, said Respondents, and each of them,



pray for the allowance of a writ of Error to the Honorable United States Circuit Court of Appeals for the Ninth Circuit, under and according to the laws of the United States in that behalf made and provided, and also an order to be made fixing the amount of security which the Respondents shall give and furnish upon said Writ of Error, that upon the giving of such security all further proceedings in this Court be suspended and stayed until the determination of said Writ of Error by the United States Circuit Court of Appeals for the Ninth Circuit, and your petitioners will ever pray.

E. C. DAY,

C. B. NOLAN,

Attorneys for Respondents.

*In the District Court of the United States, District  
of Montana*

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In the Matter of the Contempt of the  
INDEPENDENT PUBLISHING COMPANY,  
a corporation, and Its Manager and Editor,  
WILL A. CAMPBELL,

---

**ORDER ALLOWING WRIT OF ERROR.**

Upon motion of C. B. Nolan, Esq., one of the Attorneys for the above named Respondents, and upon filing a petition for a Writ of Error and an Assignment of Errors, it ORDERED that a Writ of Error be, and the same is hereby, allowed to have reviewed in the United States Circuit Court of Appeals for the Ninth Circuit, the judgment

heretofore entered herein, and that the amount of Bond on said Writ of Error be, and the same is hereby fixed at \$1000.00, and that upon due execution and approval of said Bond, the same shall act as a supersedeas herein.

GEO. M. BOURQUIN,

Judge.

And on said 29th day of December, 1915, a bond on Writ of Error was filed herein, being as follows. to-wit:

*In the District Court of the United States, District  
of Montana*

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In the Matter of the Contempt of the  
INDEPENDENT PUBLISHING COMPANY,  
a corporation, and Its Manager and Editor,  
WILL A. CAMPBELL,

---

**BOND.**

KNOW ALL MEN BY THESE PRESENTS,  
That We, Independent Publishing Company, a corporation, and Will A. Campbell, as principals, and Massachusetts Bonding and Insurance Company, as surety, are held and firmly bound unto the United States of America, in the sum of \$1000.00, to be paid to the United States of America, to which payment well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our, and each of our, successors, representatives and assigns, firmly by these presents.

Sealed with our seals, and dated this 28th day

of December, 1915.

Whereas, the above named Respondents have sued out a Writ of Error to the United States Circuit Court of Appeals for the Ninth Circuit, to reverse the judgment in the above entitled cause, adjudging said respondents in contempt of Court, and that they pay a fine of \$617.95, which said judgment was signed and passed by the District Court of the United States, for the District of Montana, on the 11th day of December, 1915;

Now, Therefore, the condition of the above obligation is such that if the said Respondents, Independent Publishing Company, a corporation, and Will A. Campbell, shall prosecute said Writ to effect, and answer all costs and damages, if they, or either them, shall fail to make good their plea, then this obligation shall be void, otherwise to be in full force and virtue.

INDEPENDENT PUBLISHING CO.

By J. M. MacMillan,  
(Independent Publishing                      Treasurer.  
Company Seal)

Will A. Campbell. (Seal)

MASSACHUSETTS BONDING &  
INSURANCE CO.

By Sol Poznanski,  
Agent.

ATTEST:

C. B. NOLAN,

Attorney in Fact.                      (Massachusetts Bonding &  
Insurance Co. Seal)

*Approved: Bourguin, J.*

And on said 29th day of December, 1915, a Writ of Error was duly issued herein and served and filed Dec. 30, 1915, being as follows, to-wit:

*In the District Court of the United States, District  
of Montana*

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In the Matter of the Contempt of the  
INDEPENDENT PUBLISHING COMPANY,  
a corporation, and Its Manager and Editor,  
WILL A. CAMPBELL,

---

**WRIT OF ERROR. (ORIGINAL.)**

*United States of America, ss.*

The President of the United States of America to the Honorable, the Judge of the District Court of the United States, for the District of Montana, Greeting:

Because in the record and proceedings, and also in the rendition of the judgment of the plea, which is in the said District Court of the United States, for the District of Montana, before you entitled In the Matter of the Contempt of the Independent Publishing Company, a corporation, and Its Manager and Editor, Will A. Campbell, a manifest error hath happened to the said Independent Publishing Company, a corporation, and Its Manager and Editor, Will A. Campbell, Respondents in said proceedings, to the great damage of the said Independent Publishing Company, a corporation, and its Manager and Editor, Will A. Campbell, Plain-

tiffs in Error, as by their complaint appears;

We being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the records and proceedings aforesaid with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, in the City of San Francisco, in the State of California, together with this writ, so that you may have the same at the said place in said Circuit within thirty days from the date of this Writ, that the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct those errors what of right and according to the laws and customs of the United States should be done.

WITNESS, The Honorable Edward Douglas White, Chief Justice of the Supreme Court of the United States, this 29th dy of December in the year of our Lord One Thousand Nine Hundred and Fifteen, and of the Independence of the United States the One Hundred and 40th.

GEO. W. SPROULE,  
Clerk of the District Court of  
the United States for the  
District of Montana.

By HARRY H. WALKER,  
Deputy Clerk.



Due personal service of within Writ of Error made and admitted and receipt of copy acknowledged this 29th day of December 1915.

B. K. WHEELER,  
U. S. District Attorney  
for Montana.

**ANSWER OF COURT TO WRIT OF ERROR.**

The answer of the Honorable, the District Judge of the United States for the District of Montana, to the foregoing Writ:

The record and proceedings whereof mention is within made, with all things touching the same, I certify, under the seal of the said District Court of the United States, to the United States Circuit Court of Appeals for the Ninth Circuit, within mentioned, at the day and place within contained, in a certain schedule to this writ annexed, as within I am commanded.

By the Court:

GEO. W. SPROULE,  
Clerk.

(SEAL.)

And on said 29th day of December, 1915, a Citation was duly issued, thereafter served and filed Dec. 30, 1915, being as follows, to-wit:

*In the District Court of the United States, District  
of Montana*

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In the Matter of the Contempt of the  
INDEPENDENT PUBLISHING COMPANY,  
a corporation, and Its Manager and Editor,  
WILL A. CAMPBELL,

---

**CITATION. (ORIGINAL.)**

*United States of America, ss.*

The President of the United States to the United States of America, Greeting:

You are hereby cited and admonished to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit to be held at the City of San Francisco, in the State of California, within thirty days from the date of this writ, pursuant to a Writ of Error filed in the Clerk's Office of the District Court of the United States, for the District of Montana, wherein the Independent Publishing Company, a corporation, and its Manager and Editor, Will A. Campbell, are plaintiffs in Error and the United States of America is Defendant in Error, to show cause, if any there be, why judgment in the said Writ of Error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable Geo. M. Bourquin, Judge of the District Court of the United States, for the District of Montana, and the Seal of said

District Court, this 29th day of December, 1915.

GEO. M. BOURQUIN,  
United States District Judge  
for the District of Mon-  
tana.

Attest:

GEO. W. SPROULE,  
Clerk.

By HARRY H. WALKER,  
Deputy Clerk.

(SEAL.)

Personal Service of the foregoing Citation ad-  
mitted this 29th day of December, 1915.

B. K. WHEELER,  
United States District Attorney.



**CERTIFICATE OF CLERK U. S. DISTRICT COURT TO  
TRANSCRIPT OF RECORD.**

UNITED STATES OF AMERICA,  
DISTRICT OF MONTANA—SS.

I, Geo. W. Sproule, Clerk of the United States District Court for the District of Montana, do hereby certify and return to the Honorable, The United States Circuit Court of Appeals for the Ninth Circuit, that the foregoing volume, consisting of 34..... pages, numbered consecutively from 1 to 34..... inclusive, is a full, true and correct transcript of the pleadings and judgment, the bill of exceptions, assignment of errors and other proceedings had in said cause and of the whole thereof, as appears from the original files and records of said court in my possession as such Clerk; and I further certify and return that I have annexed to said transcript and included within said paging the original writ of error and citation issued in said cause.

I further certify that the costs of the transcript of record amount to the sum of thirteen<sup>80</sup>/<sub>100</sub> Dollars (\$13<sup>80</sup>.....), and have been paid by the plaintiffs in error.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said court at Helena, Montana, this 19th..... day of January  
A. D. 1916.

Geo W Sproule  
Clerk.

(Seal)

